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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,129	08/21/2003	Yasuo Amemiya	YOR903281US1	7118
23405	7590	10/12/2005	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203			ELLIS, KEVIN L	
			ART UNIT	PAPER NUMBER
			2188	

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/645,129

Applicant(s)

AMEMIYA ET AL.

Examiner

Kevin L. Ellis

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 8, 9, 11, 12, 14, 16-20, 22-28, and 30 is/are rejected.
- 7) ☒ Claim(s) 3,4,6,7,10,13,15,21 and 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/22/03</u> . | 6) <input type="checkbox"/> Other: ____. |

Detailed Action

1. Claims 1-30 are presented for examination.
2. Information disclosed and listed on PTO 1449 has been considered.
3. Applicant should remove all references to attorney docket numbers, provide U.S. serial numbers, filing dates, and current status of all copending applications (see P 1).

Claim Rejections – 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1, 2, 5, 8, 9, 11, 12, 14, 16-20, 22, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Humlicek et al., U.S. Patent 5,822,782.

A) As to claims 1, 8, 11, 16, 19, and 23, Humlicek et al. discloses the invention as claimed. There is a method of grouping storage media comprising obtaining parameter information for one or more parameters associated with a plurality of storage media (Fig 4 Ref 402, Col 8 Lines 6-13) and grouping at least a portion of storage media of the

plurality of storage media into one or more groups of storage media based on at least one parameter of the one or more parameters (Fig 4 Ref 404, Col 8 Lines 13-46).

- B) As to claims 2 and 17, the system of Humlicek et al. does use the parameters to create at least one logical array of media (i.e. RAID arrays).
- C) As to claims 5 and 18, the parameters do comprise at least one parameter associated with one or more "functions" of a storage media (see Col 5 Line 36 to Col 6 Line 49).
- D) As to claims 9 and 20, the system of Humlicek et al. does perform a type of "reconfiguring" of the group of storage media (see Col 11 Lines 36-40).
- E) As to claim 12, the plurality of storage media (i.e. disks) would have a plurality of surfaces.
- F) As to claims 14 and 22, since the system of Humlicek et al. does select a group of storage media that satisfies a chosen criterion and writing data having a selected attribute to the storage media of the selected group (see Fig 3 and Col 6 Line 50 to Col 7 Line 27).

Claim Rejections – 35 USC § 103

6. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24-28 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Humlicek et al., U.S. Patent 5,822,782.

- A) As to claims 24, Humlicek et al. discloses the invention substantially as claimed.

There is a method of grouping storage media comprising obtaining parameter information for one or more parameters associated with a plurality of storage media (Fig 4 Ref 402, Col 8 Lines 6-13) and grouping at least a portion of storage media of the plurality of storage media into one or more groups of storage media based on at least one parameter of the one or more parameters (Fig 4 Ref 404, Col 8 Lines 13-46). However, Humlicek et al. does not disclose that this method is implemented as a computer program. It would have been obvious to one having ordinary skill in the art at the time the invention was made that the invention of Humlicek et al. could be implemented in software as well as hardware which would allow faster debugging of the steps to perform the invention.

- B) As to claims 25, 26, 27, 28, and 30, these claim limitations have been addressed with respect to claims 2, 5, 8, 9, and 14 above and the rejection applies here as well.

Allowable Claims

8. Claims 3, 4, 6, 7, 10, 13, 15, 21, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin L. Ellis whose telephone number is 571-272-4205. The examiner can normally be reached on weekdays from 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on 571-272-4210. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Kevin L. Ellis
Primary Examiner
October 5, 2005

